

Before the
Federal Communications Commission
Washington, D. C. 20554

In the Matter of)	
)	
Amendment of the Commission's Rules)	Gen Docket No. 90-314
to Establish New Person Communications)	ET Docket No. 92-100
Services, Narrowband PCS)	
)	
Implementation of Section 309(j) of the)	PP Docket No. 93-253
Communications Act - Competitive Bidding)	
Narrowband PCS)	

To: The Commission

COMMENTS OF AMERITECH MOBILE SERVICES, INC.

Ameritech Mobile Services, Inc. (Ameritech) hereby comments on the issues raised by the Commission concerning narrowband Personal Communications Services (PCS) in its April 23, 1997 Report And Order And Further Notice Of Proposed Rulemaking ("Further Notice") in the above captioned proceeding. As discussed below, the Commission should relax the buildout requirements for narrowband PCS licensees, since the auction scheme makes strict requirements unnecessary, and since narrowband PCS is a new service which needs time to gain public acceptance before geographic coverage requirements are mandated. The Commission should also avoid changing the current spectrum allocation, and allocating reserve spectrum, in a way that will destroy the investment expectations of existing narrowband PCS licensees. Finally, the Commission should adopt its proposed partitioning/disaggregation scheme, since this rule change would make it possible for narrowband licensees to modify their coverage as necessary to provide the best possible service to the public.

I. The Commission Should Relax the Narrowband PCS Construction Requirements.

The Commission has requested comment on certain alternative proposals concerning the construction requirements for new and existing narrowband PCS licensees. These alternative proposals include the elimination of the geographic buildout requirement altogether, and/or the adoption of a rule more similar to the one adopted for one-way paging in WT Docket No. 96-18, including a "substantial service" option. The unusual circumstances facing narrowband PCS licensees dictate that the buildout requirement be relaxed, for both new and existing licenses. In no event should it be made stricter.

Narrowband PCS is a truly new service. In this regard, it is unlike the broadband PCS services that have been recently licensed by the Commission. Broadband PCS may eventually develop into a number of innovative services, but for now it is substantially identical to cellular service. Indeed, in markets such as Washington, D. C., where at least one broadband PCS licensee has commenced service to the public, PCS and cellular are direct competitors, and are marketed as such. However, narrowband PCS is fundamentally different from both one-way paging and cellular. It allows a response and two-way data capability that is unlike any existing paging service. However, it does not provide real time two-way voice service that can be provided over a cellular or broadband PCS system.

Therefore, while it may have been reasonable to impose a geographic/population coverage buildout requirement on broadband PCS licensees, narrowband providers face a fundamentally different situation. They are still struggling for public acceptance of their service. Such acceptance will depend on the industry finding a "niche," based on considerations of pricing and capability, in an ever-changing telecommunications environment. Narrowband providers hope, of course, that their service can be priced cheaply enough that it will attract those users who need two-way capability but who cannot afford to pay the costs associated with cellular or broadband PCS service. Unfortunately, narrowband PCS technology and marketing are in their infancy. At the same time, cellular and broadband PCS pricing has been a moving

target, because of the entry of new service providers into the marketplace. Given this uncertain environment, even Mobile Telecommunications Technology (MTEL) has seen its stock price plummet after introducing its narrowband PCS service, even though MTEL had a headstart on all other narrowband providers, by virtue of being awarded its license by pioneer's preference, prior to the start of the narrowband auctions.

Because narrowband licensees are in essence "pioneers" of a new service, and because it is unclear if and when this service will gain wide public acceptance, it is counterproductive to hold these licensees to substantial geographic - or population-based buildout requirements. The investment of millions of dollars in license fees is a more than adequate incentive for these licensees to implement service to the public. These licensees may find that, because narrowband PCS must find a niche between cellular and paging, traditional coverage to the population in general may not be justified or even feasible. Instead, it may be necessary to focus any buildout on the business community, as was the case for cellular and paging for the first ten years. Therefore, it would be wise to eliminate the current geographic/population buildout requirement altogether, and instead allow the marketplace to dictate where and how quickly narrowband PCS will be implemented. In this way, narrowband PCS providers will not face the prospect of being rendered financially unstable by artificial construction requirements.

In order to ensure that there is adequate incentive to implement service upon eliminating the geographic/population buildout requirements, the Commission can adopt the "substantial service" option for this purpose. Ameritech supports this proposal, but is concerned that the Commission clarify the meaning of "substantial service" in the narrowband PCS context, so that licensees are clearly apprised of the standard they must meet, and can plan accordingly.

The current definition of "substantial service" is "service that is sound, favorable and substantially above a level of mediocre service, which would barely warrant renewal." Further Notice at para. 43. This definition captures in part the concept of recognizing narrowband PCS

as a start-up service that does not lend itself to strict geographic coverage requirements. However, Ameritech is concerned that a narrowband licensee should not have to face cancellation of its license if at renewal time there is a disagreement between the Commission and the licensee over the meaning of the term "mediocre." The word mediocre is defined in the Webster's New World Dictionary as "of middle quality; ordinary." It goes without saying that, for any group of licensees, some will provide service which is extraordinary, some will provide service which is ordinary, and some will provide service which is less than ordinary. If the majority of carriers improve their service, this improved service will become "ordinary," since it will be commonplace. Therefore, the use of the term "mediocre" creates a subjective standard which by definition may cost several narrowband providers their license, since they will not be able to meet the "substantial service" standard, even though they are providing a service which is adequate and offers a valuable communications capability to the public.

Therefore, Ameritech recommends that the definition of "substantial service" be modified, for narrowband PCS purposes.¹ The new definition could be as follows:

Substantial service is service that is sound, favorable, and reasonably capable of meeting an appropriate portion of the public demand for one or more of the communication services of which the system is capable under the Commission's rules.

The above wording (or similar language) would make the substantial service option workable for narrowband PCS, by recognizing that it is possible for all licensees to provide substantial service, by introducing adequate advanced paging and two-way data service to the public. This standard will help encourage investment in narrowband systems. The revised standard would also further the rapid public acceptance of these services, by giving licensees the leeway to experiment with their service options, without fear that the chosen options will later be labeled "mediocre," with disastrous consequences. The Commission has previously

¹ Ameritech has expressed its concerns over the "substantial service" option in other rulemakings, such as WT Docket No. 96-18. The Commission may want to consider the alternative definition proposed above in other contexts as well. However, this issue need not be resolved in the captioned proceeding.

tailored the meaning of the "substantial service" option to specific radio services. Thus, in establishing this option for Wireless Communications Service (WCS) licensees, the Commission indicated that substantial service constituted providing coverage to twenty percent of the population, or providing four links per one million people within the service area. It also gave WCS licensees the ability to make alternative demonstrations of substantial service. This course of action was appropriate, given the fact the WCS is a new and untested service. As discussed above, narrowband PCS is likewise in its infancy, and a more relaxed standard is therefore appropriate.

While the Commission should conform the buildout standard for narrowband PCS to the construction requirements for paging by adopting a substantial service option, it should not adopt for narrowband PCS the more stringent geographic buildout requirement embodied in the new "market area licensing rules" adopted for paging in WT Docket No. 96-18. This stricter requirement mandates coverage to one-third of the population of the service area within three years, and two-thirds of the population within five years. This standard may be appropriate for paging, since paging is a mature service, and there is a great likelihood that the auction winner will be an incumbent licensee that has already constructed several facilities within the market area. However, narrowband licensees do not enjoy these advantages.

II. The Commission Should Not Reconfigure the Service Areas of Unlicensed Narrowband PCS Spectrum In A Way That Will Devalue Existing Licenses.

The Commission has proposed to reconfigure the service areas of remaining narrowband PCS spectrum, so as to increase the licensed geographic area of each frequency pair. In particular, the Commission proposes to (1) redesignate the two remaining 50 kHz paired channels as nationwide channels; (2) establish one nationwide, three regional and only one Major Trading Area (MTA) channel pairs from the five remaining 50/12.5 kHz channel pairs; and (3) convert the four Basic Trading Area (BTA) 12.5 kHz unpaired response channels to regional licenses. The Commission should refrain from changing its licensing scheme in mid-stream, because doing so for a new radio service will destroy the reasonable investment-backed

expectations of those licensees who have already bid millions of dollars on their narrowband PCS spectrum.

As discussed above, narrowband PCS is an untested service. Therefore, there is already a fair amount of speculation built into the planning of narrowband systems. Existing licensees have built their business plans as best as possible around the few items of concrete information available to them. One of the most important aspects of this business plan has been an assessment of the number of competitors that will be able to offer truly fungible narrowband service. On the basis of the allocation scheme adopted in this docket, these entities bid millions of dollars for their licenses. The Commission's proposal to create more nationwide and regional licenses will introduce additional nationwide and regional competitors, before this nascent service has become established. This tinkering with the competitive balance could prove disastrous for existing carriers that are struggling to bring the new service to the marketplace, by significantly reducing the value of the license for which they have already paid, and thereby making it more difficult to raise capital for their buildout and marketing efforts.

The Commission has gotten a glimpse of this marketplace dynamic in the broadband PCS context. The C-Block licensees bid millions of dollars for their licenses in 1996. The Commission then made last-minute changes to the rules for the D,E and F Blocks, and held the auction just months later. The very low prices garnered at the D,E and F auction have resulted in a reevaluation of the value of C-Block licenses by Wall Street. As a consequence, C-Block licensees have had such difficulty obtaining financing for their buildout that many are on the verge of bankruptcy. The Commission has been forced to consider drastic changes to their auction payment rules to address this unstable situation. See Public Notice, WT Docket No. 97-82, Mimeo No. DA 97-679, released June 2, 1997.

The Commission must avoid recreating this scenario in the narrowband PCS context. The current lack of public acceptance of narrowband PCS services makes these licenses even

more susceptible than the C-Block licenses to value fluctuations due to unforeseen competition. The Commission could inadvertently create a situation where nationwide licenses are sold at auction for a price less than the regional licenses auctioned less than two years ago. In addition, the elimination of smaller license areas will prevent existing regional licensees (such as Ameritech) from augmenting their coverage based on marketplace demands, rather than the somewhat arbitrary regional boundaries used by the Commission. Other emerging technologies have been licensed with a variety of service area sizes. Regulatory parity dictates that the mix of license sizes already in place for narrowband PCS be preserved. Therefore, the Commission should not change the market area design it previously adopted.

For the same reasons, the Commission should refrain from auctioning the narrowband PCS spectrum which it currently holds in reserve. Further Notice at para. 33. Releasing this spectrum in a configuration that will create additional competitors will devalue all existing licenses. There are already 16 narrowband PCS providers licensed to provide service in any given market. Therefore, the Commission is not faced with a situation where service prices are artificially inflated due to a lack of competitors. Instead, it is faced with a situation where additional allocations could create ruinous competition for a new service, with a net deterioration of services available to the public.

The Commission should instead adopt a "wait and see" approach. If in several years narrowband PCS becomes as robustly competitive as the paging industry has become, the Commission can then license the reserve spectrum using the service area sizes that make the most sense based on the industry's experience to that point. The paging industry was able to flourish under this same approach: When the service was new, only a handful of paging channels were allocated. As public acceptance and demand grew, the guardband channels were allocated. Several years later, the 900 MHz were made available.

III. The Commission Should Adopt its Partitioning/Disaggregation Proposal.

Ameritech strongly supports the Commission's proposal to allow the partitioning of license areas and disaggregation of narrowband PCS spectrum under the same rules it has adopted for broadband PCS. Such partitioning rights will allow licensees to fashion their actual service areas to better reflect their business plans. Likewise, the ability to disaggregate spectrum will allow licensees to tailor their services to marketplace demand. Both options will create a source of funding for licensees, who can sell off geographic areas and/or spectrum which they do not plan to utilize, and apply the proceeds towards a more rapid buildout.

Ameritech does not believe that partitioning should be the sole avenue for licensees to change their service areas, because voluntary partitioning arrangements may not come together as desired. Therefore, in addition to partitioning, Ameritech believes that it is necessary to retain MTA- and BTA-sized licenses, as discussed above. The availability of these smaller licenses will allow regional licensees to expand their coverage in the absence of a partitioning arrangement. Both partitioning and the retention of smaller market areas will have the incidental benefit of making it easier for small business to participate in narrowband PCS.

IV. The Commission Should Not Eliminate Eligibility Requirements For The Unpaired Response Channels.

The Commission has proposed to eliminate the current rule that restricts eligibility for the unpaired narrowband response channels to incumbent paging licensees authorized as of June 24, 1993. Nothing in the record indicates that there is any demand for stand-alone 12.5 kHz operations. Elimination of eligibility restriction would only serve to make it more difficult for incumbent paging licensees to convert their existing operations into two-way paging systems, once public demand for this service warrants such action. The Commission's proposal would also create an invitation to speculators to bid on the unpaired channels, in the hope that they can later sell these channels to paging carriers that are not yet prepared to explore two-way paging at the time the auction takes place.

Therefore, the Commission should not remove the eligibility restriction from the unpaired channels. For the same reasons, the Commission should delay the response channel auction until public acceptance of narrowband PCS can be more accurately gauged, and existing paging carriers can plan accordingly. The Commission should also utilize a multiple-round bidding process for the response channels. The current plan to use a sealed bid process will deprive incumbent licensees of information concerning the market value of the unpaired spectrum, and will lead to the problem of the "winner's curse" (i.e., paying too much for the spectrum) which the Commission was so diligent to avoid in the case of broadband PCS.

Conclusion

In light of the foregoing, it is respectfully requested that the Commission modify its narrowband PCS rules as discussed above.

Respectfully submitted,

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